

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3675

IN THE MATTER OF:

Served April 12, 1991

Application of XABERIA TOURS, INC.,)
for a Certificate of Authority —)
Irregular Route Operations)

Case No. AP-91-08

By application filed February 15, 1991, as supplemented February 28, 1991, Xaberia Tours, Inc. (Xaberia or applicant), seeks a Certificate of Authority to transport passengers, together with baggage in the same vehicles as passengers, in irregular route operations between points in the Metropolitan District.

By Order No. 3612, served February 22, 1991, notice of this application was given, and applicant was directed to publish further notice in the newspaper no later than March 4, 1991. Order No. 3612 directed applicant to file an affidavit of publication no later than March 25, 1991. Applicant complied with these directions, and no protests or comments have been filed in this case. No person has requested a hearing in this matter. Therefore, the matter is now ripe for decision.

SUMMARY OF EVIDENCE

Applicant is a recently-formed Maryland close corporation, the stock of which is held jointly by Dwight Weston, applicant's president and treasurer, and Julie Weston, applicant's vice president and secretary.

Applicant proposes to transport passengers for hire over irregular routes between points in the Metropolitan District. The proposed transportation would emphasize sightseeing service for Spanish-speaking tourists. Applicant would initiate the proposed transportation using a single vehicle having a manufacturer's designed seating capacity of 15 persons (including the driver). The vehicle is owned by applicant's president and will be either transferred or leased to the corporation. On the balance sheet the vehicle is shown as an asset of the corporation. Applicant intends to add a second vehicle shortly after the proposed operations are commenced.

Vehicles would be checked daily and subjected to a preventive maintenance regime on a 3,000 mile schedule. Arrangements have been made for back-up service and repairs. Each driver would be required to be bilingual and to have a clean driving record, experience in handling vans and giving tours, a chauffeur's license, a tour guide license, and good interpersonal skills. Drivers would be responsible for checking vehicles and related equipment before and after each tour and for conducting the tours.

Applicant has not been assigned a safety rating by the United States Department of Transportation (USDOT). However, applicant's president certifies on Xaberia's behalf that it has access to and is familiar with all USDOT regulations relating to safe operation of commercial vehicles and safe transportation of passengers for hire and will comply with those regulations. Applicant's president further certifies on Xaberia's behalf that Xaberia has access to and is familiar with the Compact and the Commission's rules and regulations, that it will comply with them, and that there are no proceedings, either completed or pending, in which Xaberia has been found unfit or in which its fitness is under investigation by this Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the Interstate Commerce Commission, or USDOT.

As described in the application, Xaberia would initiate transportation with three tours. "Tour A - City Tour" is described as a "Driving Tour of the Washington, D.C. Sights Including Drive-By of the Watergate, Kennedy Center, Union Station, Smithsonian Institution, and Stops at the White House, Capitol, Lincoln Memorial, Arlington Cemetery, Viet Nam Memorial and Air and Space Museum." "Tour B - Night Tour" would consist of a driving tour of Embassy Row and "the Monuments" with stops at Georgetown, the Kennedy Center, the west side of the White House, Jefferson Memorial, and Iwo Jima Memorial. "Tour C - Mount Vernon Tour" is a tour of Mount Vernon and Old Town Alexandria; admission to Mount Vernon is included in the rate proposed for that tour. Transfers between points in the Metropolitan District, on the one hand, and, on the other, Union Station, Washington, DC; Washington National Airport, Arlington County, VA; and Washington Dulles International Airport, Loudoun County, VA, would also be offered. The per-person rate proposed for Tour A ranges from \$50 to \$22 depending on the number of persons transported; the per-person rate for Tour B ranges for \$45 to \$20; and the per-person rate for Tour C ranges from \$100 to \$30. The per-person rate charged for Union Station and National Airport transfers is proposed to range from \$45 to \$13; the rate for Dulles Airport transfers is proposed at a range of \$60 to \$17. All per-person fares are listed as "Per Passenger Fares for Number in Van." The following per-person fare categories are listed as to number of passengers: "1, 2, 3-5, 6-14, 15-21," and "22-30." Hourly service would be available at \$40 an hour, minimum four hours; National Airport transfers would be offered at \$75, and Dulles Airport transfers would be offered at \$120.

With its application Xaberia filed a balance sheet as of December 31, 1990, showing current assets (cash) of \$3,000 and fixed assets (undepreciated) of \$13,000. Current liabilities of \$3,000, long-term liabilities of \$6,000, and equity of \$7,000 are shown. All liabilities pertain to revenue equipment. Applicant's principals are prepared to provide the company additional financing. Applicant has no operating history. For the first 12 months of WMATC operations, applicant projects operating income of \$72,000 and operating expenses including depreciation and taxes of \$65,030, resulting in an operating ratio of .90.

In support of the application, Xaberia's president states, "Service will provide passengers with opportunity for complete tour service and transfers throughout the Metropolitan District, especially for Spanish-speaking passengers" The application is supported by four public witnesses.

Mr. Julio P. Parra, concierge for the Washington Plaza Hotel, Washington, DC, attests that the Washington Plaza requires sightseeing service for an average of 20 persons a week; these are persons traveling in groups ranging in size from two to ten persons. Hotel guests want to be picked up at and returned to the Washington Plaza. Occasionally guests want to be left at specified museums after a tour. According to Mr. Parra, the Washington Plaza would only use a carrier offering good, clean equipment and courteous drivers attending to the needs of its guests. Mr. Lupercio Lucero, president and owner of LTL Lucero, Inc. (LTL), Long Island City, NY, attests that his company requires sightseeing service throughout the Metropolitan District twice a week on average. Local transfers and one-day sightseeing service are also required. LTL usually books service for groups of between 10 and 15 persons. LTL is looking for service in clean, safe 15-passenger vans driven by courteous sightseeing guides who speak Spanish and give personalized service. Ms. Theresa Fatzinger, sales manager for the Georgetown Inn, Washington, DC, attests that Georgetown Inn requires sightseeing tours "throughout the District of Columbia and other local sights" for between 15 and 20 guests a week. Georgetown Inn is interested in tours that originate and terminate at the hotel. Tours are required by individuals as well as groups of up to eight people. Georgetown Inn requires good, efficient service in clean, safe equipment driven by courteous guides. Personalized service is required to satisfy the Inn's demands for its guests. Mr. Victor Estrada, president of American Leisure Tours, New York, NY, attests that he requires sightseeing service throughout the Metropolitan District for approximately 20 passengers a week. These passengers will be traveling in groups ranging in size from two to 20 persons. In general the groups are Spanish-speaking. Pick up and drop off points are desired at local airports, Union Station, and area hotels. Mr. Estrada is looking for service in clean, mechanically-sound, 15-passenger vans operated by a company offering courteous, personalized service.

DISCUSSION AND CONCLUSIONS

This case is governed by the Compact, Title II, Article XI, Section 7(a) which provides in relevant part that:

. . . the Commission shall issue a certificate to any qualified applicant, . . . if it finds that -

(i) the applicant is fit, willing, and able to perform that transportation properly, conform to the provisions of this Act, and conform to the rules, regulations, and requirements of the Commission; and

(ii) that the transportation is consistent with the public interest.

Based on a thorough review of the entire record in this case, the Commission finds applicant to be fit operationally, financially, and as to compliance. The Commission further finds that the proposed transportation is consistent with the public interest. Consequently Xaberia's application will be granted insofar as it pertains to transportation of passengers in vehicles having a manufacturer's designed seating capacity of 15 persons or less, including the driver.

One matter needs clarifying. The operating authority conditionally granted Xaberia by this order is restricted as to vehicle size. However, applicant's proposed tariff appears to list rates applicable to vehicles larger than Xaberia would be authorized to operate. Applicant is reminded that WMATC certificates authorize only the certificate-holder to transport passengers. The transportation conducted must be consistent with the transportation authorized. Xaberia will be directed to file a revised tariff consistent with the transportation it will be authorized to perform.

THEREFORE, IT IS ORDERED:

1. That Xaberia Tours, Inc., is hereby conditionally granted, contingent upon timely compliance with the terms of this order, authority to transport passengers, together with their baggage in the same vehicles as passengers, in irregular route operations between points in the Metropolitan District, restricted to transportation of passengers in vehicles with a manufacturer's designed seating capacity of 15 persons or less, including the driver.

2. That in all other respects the application of Xaberia Tours, Inc., is hereby denied.

3. That Xaberia Tours, Inc., is hereby directed, within 30 days of the date of this order or such additional time as the Commission may direct or allow, to (a) acquire and file evidence of insurance pursuant to Commission Regulation No. 58 and Order No. 3623; (b) file five copies of its tariff, amended as discussed in the body of this order, in accordance with Commission Regulation No. 55; (c) file an equipment list stating the make, model, serial number, vehicle number, license plate number (with jurisdiction), and seating capacity of each vehicle to be used in revenue operations in the Metropolitan District; (d) file, for each vehicle to be used in revenue operations in the Metropolitan District, evidence of ownership or a lease as required by Commission Regulation No. 62; (e) file its official business address as discussed in Commission Regulation No. 68; and (f) an affidavit of identification of vehicles pursuant to Commission Regulation No. 61 for which purpose WMATC No. 179 is hereby assigned.

4. That upon timely compliance with the requirements of the preceding paragraph and acceptance of the materials required by the Commission, a Certificate of Authority No. 179 shall be issued to Xaberia Tours, Inc., in the form and as worded in the Appendix to this order.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS WORTHY, SCHIFTER, AND SHANNON:



William H. McGilvery
Executive Director

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

CERTIFICATE OF AUTHORITY

NO. 179

Xaberia Tours, Inc.
3421 Hampton Hollow, Suite F
Silver Spring, Maryland 20904

By Order No. 3675 of the Washington Metropolitan Area Transit Commission issued April 12, 1991;

WHEREAS, the above-named carrier is entitled to receive authority to transport passengers within the Washington Metropolitan Area Transit District;

THIS CERTIFICATE OF AUTHORITY is hereby issued to the said carrier as evidence of the authority to engage in the for-hire transportation of passengers by motor vehicle; subject, however, to such terms, conditions, and limitations as are now, or may hereafter be, attached to the exercise of the privilege granted to the said carrier:

IRREGULAR ROUTES, transporting passengers, together with their baggage in the same vehicles as passengers, between points in the Washington Metropolitan Area Transit District;

RESTRICTED TO (1) operations conducted according to the said carrier's applicable tariff on file with the Commission and (2) transportation in vehicles with a manufacturer's designed seating capacity of 15 or fewer persons, including the driver;

RESTRICTED AGAINST (1) transportation solely within the Commonwealth of Virginia and (2) any passenger transportation for hire on an individual fare paying basis in competition with any existing, scheduled, regular-route, passenger transportation service performed by, or under a contract with, the Federal Government, a signatory to the Compact, a political subdivision of a signatory, or the Washington Metropolitan Area Transit Authority.

THIS CERTIFICATE OF AUTHORITY DOES NOT AUTHORIZE ANY TRANSPORTATION BY ANY PERSON OTHER THAN THE CARRIER NAMED HEREON.

THIS CERTIFICATE OF AUTHORITY IS NOT VALID UNLESS THE CARRIER NAMED HEREON IS IN COMPLIANCE WITH THE INSURANCE REQUIREMENTS OF THE COMMISSION.

CERTIFICATE OF AUTHORITY NO. 179

Xaberia Tours, Inc.

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IT IS A FURTHER CONDITION of this certificate of authority that the carrier named hereon shall (a) provide safe and adequate transportation service, equipment, and facilities; and (b) observe and enforce Commission regulations.